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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,540	01/28/2002	Ronald D. Russo	R-17	3722

7590

01/23/2004

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/058,540

Applicant(s)

RUSSO, RONALD D. *cd*

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 47-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47-66 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Allowable Subject Matter*

1. The indicated allowability of claims 1-11 is withdrawn in view of the newly discovered reference(s) to Page et al. 5215522. Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Page et al. 5215522.
4. Page et al. teaches a suction system having a suction tube, a source of suction and a suction control valve, the suction control valve comprising: a housing having an upper surface and a first central linear passageway extending through the housing and in fluid flow communication at one end thereof with a suction tube and with a suction source at the other end thereof, the housing having a second passageway opening at the upper surface and transversing the first central linear passageway, a manually depressible and releasable plunger operable with the second passageway wherein the plunger includes a closed piston portion and an open unobstructed, straight through, high flow cross lumen portion and is normally positioned with the first passage to a non-suction applied position where the piston portion is posited across the first passageway

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to hermetically seal off fluid and air flow communication between the suction tube and the source of suction; wherein the plunger includes outer surfaces adapted for sealing engagement with the second passageway; a suction catheter and an actuator portion as part of the plunger, the first central linear passageway in fluid flow communication at one end with a suction catheter and at its other end with a suction source; and wherein the system is a closed tracheal suction system.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

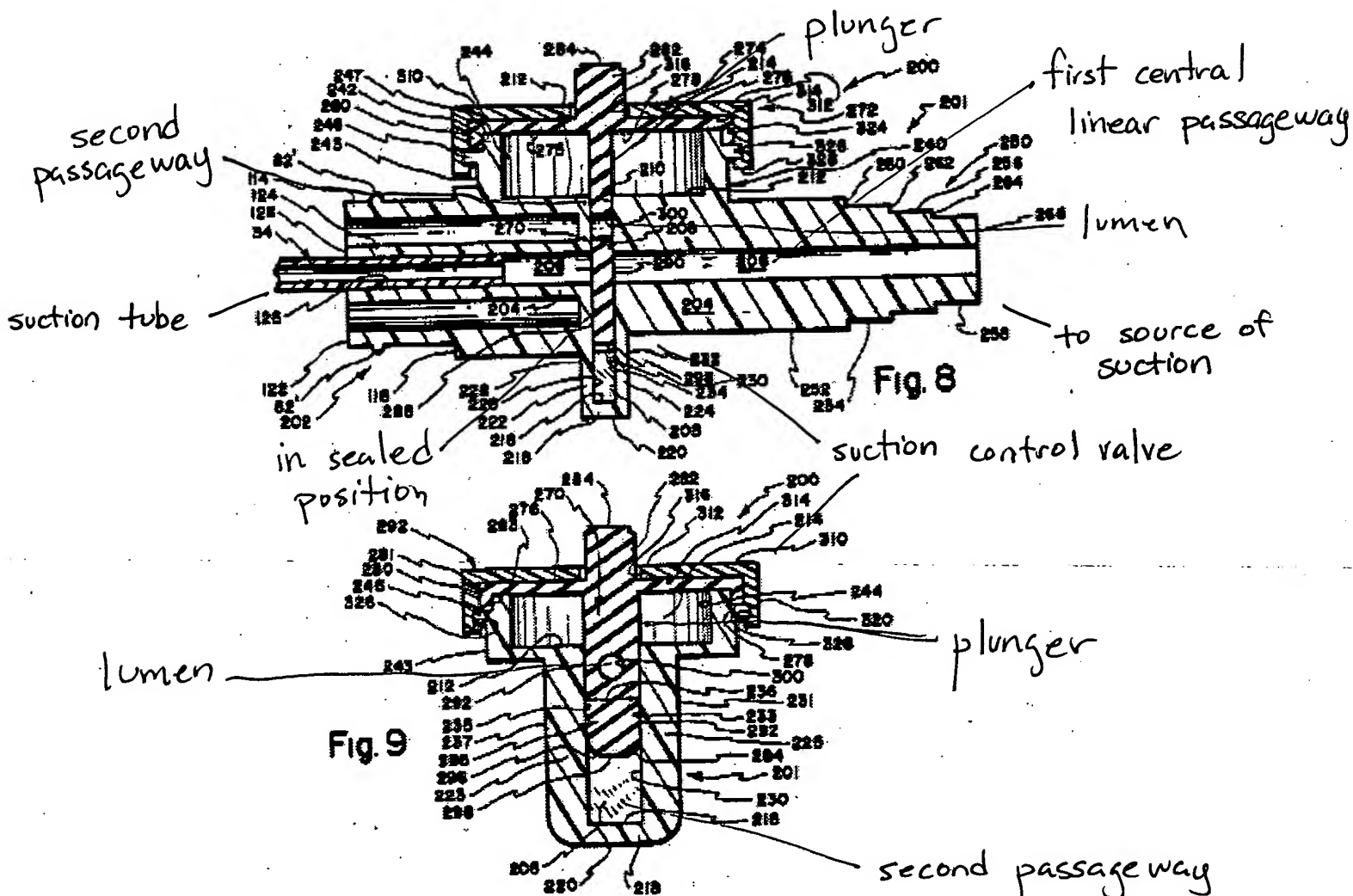
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 6, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page et al. in view of Palmer 4569344.

7. Page et al. teaches the suction control valve of claim 4. It should be noted that Page et al. fails to teach a means for preventing inadvertent depression of the plunger.

8. Palmer teaches a suction control valve with a common means for preventing inadvertent depression of a plunger. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the mean for preventing inadvertent depression of a plunger for preventing suction if not needed (col. 2, lines 2-3).

9. Page/Palmer teaches a respiratory suction catheter system as above for suctioning secretion from a patient further comprising: a frontal manifold 32 configured for delivery of ventilator air to a patient, a rearward suction control valve 40; a means for cleaning the catheter (col. 9, lines 26-37); wherein the frontal manifold is fixedly connected to a suction catheter assembly (col. 4, lines 20-25); wherein the suction catheter assembly is disconnectable with the frontal manifold (col. 4, lines 20-25).



***Allowable Subject Matter***

10. Claims 47-66 are allowable over the prior art of record.
  11. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or render obvious the overall claimed invention of a suction catheter system for suctioning secretions from a patient comprising: a catheter isolator seal disposed at a rearward end of a connector inner air passage, a catheter cleaning chamber including a catheter clean flush port located in front of the catheter isolator seal, the isolator seal normally biased to a closed position; the catheter isolator seal operable to an open position solely by direct contact and manual advancement of a distal tip of the catheter with the isolator seal.
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**Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



MM  
January 13, 2004



GLENN K. DAWSON  
PRIMARY EXAMINER